

Docket No. A2011-70

Postal Regulatory Commission

Washington, D.C. 20268-0001

NOTICE OF FILING UNDER 39 U.S.C. § 404(d)

TO THE UNITED STATES POSTAL SERVICE:

Please take notice that on September 13, 2011, the Commission received a petition for review of the Postal Service's determination to close the Woodgate post office located in Woodgate, New York. The petition for review was filed by John B. Isley (Petitioner) and is postmarked September 1, 2011.

This notice is advisory only and is being furnished so that the Postal Service may begin assembling the administrative record in advance of any formal appeal proceedings held upon the alleged (closing/consolidation) for transmittal pursuant to 39 CFR § 3001.113(a) (requiring the filing of the record within 15 days of the filing with the Commission of a petition for review). The Postal Service's administrative record is due no later than September 28, 2011.



Shoshana M. Grove
Secretary

Date: September 14, 2011

Attachment

A2011-70

Postal Regulatory Commission
Office of the Chief Admin. Officer

SEP 8 2011

RECEIVED

2011 SEP 13 P 3:34

POSTAL REGULATORY
COMMISSION
OFFICE OF THE CHIEF ADMIN. OFFICER

Shoshanna Grove, Secretary of the Commission
Postal Regulatory Commission
901 New York Avenue NW, Suite 200
Washington, D.C. 20268-0001

PETITION FOR REVIEW OF
CLOSURE AND APPLICATION FOR
SUSPENSION OF DETERMINATION

WOODGATE, NEW YORK (13494)
USPS DOCKET NUMBER 1388180-13494

John B. Isley
PO Box 52
Woodgate, New York 13494-0052
(315) 392-2142 Cell (315) 723-0391
e-mail - ncc9 @ frontier.com

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001
Dated: September 1, 2011

Woodgate Citizens Committee
and John B. Isley, William Karn,
Walter Paprock, Individually

Petitioners,

Vs.

United States Postal Service,

Respondent.

PETITION FOR REVIEW
OF CLOSURE AND
APPLICATION FOR
SUSPENSION OF
DETERMINATION

Docket No.

PETITIONERS, WOODGATE CITIZENS COMMITTEE AND JOHN B.
ISLEY, WILLIAM KARN, AND WALTER PAPROCK state:

1. Petitioner, Woodgate Citizens Committee, is an unincorporated quasi governmental association of six hundred ninety three individuals and fifty two businesses served by the Woodgate, New York post office (13494).

2. Petitioners, John B. Isley, William Karn and Walter Paprock are individuals who rent personal and business post office boxes at the Woodgate New York (13494) post office and thus have standing to bring this action.

3. This petition requests that the Commission set aside the determination of the United States Postal Service to close the Woodgate Post Office (13494) and that such determination shall be suspended pending a decision of the claims set forth herein.

4. That the action by the Respondent was premeditated, arbitrarily and capriciously enacted through ignoring Title 39, Part 1, Chapter 1, Section 101 postal policy that states in sub-paragraph (b) which states in pertinent part that, "The Postal

Service shall provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining.” No small post office shall be closed solely for operating at a deficit, it being: It is the specific intent of Congress that effective postal services be insured to residents of both urban and rural communities. The proposal by the Respondent to provide rural carrier service will cause substantial harm to users and to the community of Woodgate, without financial benefit to the Postal Service and with significant probability of financial loss to the Respondent. The Respondent claims an additional cost of \$14,986.67 for highway contract route cost analysis (Exhibit 1), but fails to project additional mileage costs associated with the expanded route, as well as explaining the additional carbon footprint left by motorized carrier services.

5. The cost savings of closing rural post offices reflects 0.7% cost savings to the Respondent, while systematically removing an income variable of a Post Office from the equation. The most efficient mail delivery is to post office boxes. A Post Office offers the most security, enables more deliveries per minute than any other form of delivery and does not increase the use of fossil fuel that the option of carrier service does. The Respondent has failed to observe procedure prior to any analysis or findings under the National Environmental Policy Act (42USC 4331 et.seq.) although the proposed undertaking alternative has possible environmental impacts that must be subject to environmental assessment. The Respondent failed to consider in its review the addition of many carrier boxes along a high speed highway that the New York State Department of Transportation survey shows has a maximum traffic count of five hundred sixty (560)

vehicles per hour and is geographically located within the Great Lakes heavy snow band area.

6. The Respondent provided computer generated responses to the communities concerns and many times in a callous fashion using the Change Suspension Discontinuance Center (CSDC) software program. When they could not respond to a concern with a pre-determined stock response, they would simply state that the concern has been entered into the "official record". In The Matter of Woolsey, Georgia Docket A82-1, May 14, 1982, at 7 and In the Matter of Lone Grove Docket A79-1, May 7, 1979 at 10, 13, and 16...the Commission concluded that the Postal Service is required, as a matter of law, to make an independent inquiry into non postal effects of closings and must demonstrate that such inquiry was made including the business, economic and social effects on the community of Woodgate. The Petitioners claim that these actions by the Respondent were negligent, irresponsible and self serving and failed to meet the requirements of the above cited cases.

7. The Respondent had operated a lease for a thirteen (13) year period with the landlord without a sixty day termination clause, then on November 18, 2009 changed the lease to add a 60 day termination notice (Exhibit 2) with the statement to the landlord's executive officer and current petitioner that the monthly lease payment could be withheld until such clause was executed.

8. The Respondent's action to close Woodgate is arbitrary and prejudicial because it was the Postal Service which failed to appoint a Postmaster to the office in a timely fashion. The Postal service listed the vacancy as a reason for closure in the final determination to close order, which is due to its own failure, not an inadequacy of the

existing office. Woodgate (13494) was a party to prejudicial discrimination since Inlet (13360), Old Forge (13420) and Thendara (13472) (New York State) are operating without a postmaster, but were not cited for review of closure. The Respondent has not acted in good faith, but rather, has proceeded in bad faith in dealing with Woodgate particularly.

9. The Postal Service has arbitrarily and capriciously refused legitimate requests for financial documents pertaining to the closure by informing the Petitioners that the material was "private" information. The Petitioners are hoping to determine how and on what basis accommodations could be made to maintain our service in a forthright, honorable approach. Requests for this information were referred to congressional inquiry.

10. The Postal services closure of Woodgate is also arbitrary and capricious because the operating survey of Woodgate's activities used February 2011 (21 transactions), as the sole month to analyze the entire activity at Woodgate. A recent committee survey estimates that the transactions in June showed between 75-100 transactions per day. Also, stamp sales alone are up \$400.00 for the month of June 2011 over last year.

11. Suspension of the Respondent's determination is necessary because Petitioners and the general public will suffer irreparable loss if there is any disruption of postal service at the Woodgate New York (13494) Post office.

WHEREFORE, Petitioners request the following relief:

- A. An Order of the Commission setting aside the decision to close and consolidate the Woodgate, New York post office (13494).

- B. An Order of the Commission suspending the decision to close the Woodgate, New York (13494) Post Office.
- C. An Order of the Commission directing the Respondent to observe all procedures required by law as outlined in this Petition and in the event of further consideration of closure, the disclosure of all documents, reports and/or other information upon which the Respondent relied in considering closure of the Woodgate, New York (13494) post office.
- D. To determine the closure action to have been not only prejudicial, arbitrary and capricious based on the aforementioned, but also to be blatantly undemocratic and un-American. Fundamental fairness, as well as the due process clause of the Constitution, dictates that the Respondent's decision be reversed and remanded for further consideration or dismissed altogether in the interest of justice.

By: Julie Kelly, president

John B. Isley

William Karn

Walter Paprock

VERIFICATION

I certify under penalty of perjury that I have read the foregoing Petition; I know the contents thereof; and that the Petition has been subscribed and executed with full power and authority so to do; that to the best of my knowledge, information and belief every statement contained in the document is true and no such statements are misleading; and that such document is not filed for purpose of delay.

John B. Isley
John B. Isley
William H. Karn
William Karn
Walter Paprock
Walter Paprock

Sworn to before me this 1st
Day of ~~August~~, 2011.
SEPTEMBER
Kim Kratzenberg
Notary Public

KIM KRATZENBERG
Notary Public, State of New York
Reg. #01KR6088037
Appointed in Onondaga County
My Commission Expires 03-03-20 15

EXHIBIT #1**Rural Route Cost Analysis Form**

Docket: 1388180 - 13494

Item Nbr: 17

Page Nbr: 2

**Rural Route Carrier
Estimated Cost for Alternative Replacement Service**Office Name: WOODGATEOffice Zip+4: 13494 -9998District: ALBANY PFC

1. Enter the number of additional boxes to be added to the rural route

102

2. Enter the number of additional miles to be added to the route
Enter the volume factor

0.002.25

Total (additional boxes x volume factor) 229.50

3. Enter the number of additional boxes to be added to the rural route

102

Centralized boxes

0.00

x 1.00 Min

0.00

Regular L route boxes

0.00

x 1.82 Min

0.00

Regular Non-L route boxes

102.00

x 2.00 Min

204.00

Total additional box allowance 204.00

4. Enter the number of additional daily miles to be added to the rural route

0.00

x 12 Mileage Standard

0.00

Total additional minutes per week (miles carried to two decimal places) 433.50

5. Total additional annual minutes (additional minutes per week year)

433.50

x 52 Weeks

22,542.00

6. Total additional annual hours (additional annual minutes/ 60 minutes per hour)

22,542.00

/ 60 Minutes

375.70

7. Enter the rural cost per hour (see national payroll summary report - rural carrier, consolidated)

39.89

Total Annual Cost (additional annual hours x rural cost per hour) 14,986.67

8. Enter lock pouch allowance (if applicable)

0.00

Total annual cost for alternate service (annual cost minus lock pouch allowance) 14,986.67



EXHIBIT # 2

Lease Amendment

Facility Name/Location

MAIN OFFICE (359480-003)
11045 WOODGATE RD, WOODGATE, NY 13494-9998

Amendment No: 001

Lease: B00000018757

This refers to the Lease accepted by the United States Postal Service, hereinafter called the Postal Service, under date of 09/05/1996, whereby there is leased to the Postal Service the above-described facility.

WHEREAS, the Postal Service desires and Landlord is willing to amend the Lease as specified below;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows, effective on the date this document is executed by the Postal Service.

The Landlord agrees to amend the lease as follows with the intentions of exercising the next renewal option:

Delete Paragraph #5 Termination

"None"

Insert Paragraph #5 Termination

"The Postal Service may terminate this Lease at any time by giving 60 days written notice to the Landlord."

In all other respects, the Lease shall remain the same and is hereby confirmed.

STATES
SERVICE

EXHIBIT # 2 Page 2

Exercise of Renewal Option

Facility Name/Location:

WOODGATE- MAIN OFFICE (359480-003)
11045 WOODGATE RD, WOODGATE, NY 13494-9998

County : Oneida
Lease: B00000018757

To
WOODGATE VOLUNTEER
FIRE DEPARTMENT INC
PO BOX 187
WOODGATE, NY 13494-0187

Certified Mail #
70993400000541597120

Issuing Office

6 GRIFFIN ROAD NORTH
WINDSOR, CT 06006-0300

Date of Existing Lease: 09/05/1996

The existing Lease was amended by:

Amendment No. 001 accepted by the USPS on 05/27/2006

Amendment No. 002 accepted by the USPS on 02/03/2010

02/04/2010

Pursuant to the Lease covering this facility, the Postal Service hereby exercises its option to renew said Lease as follows:

Term: 5 Years From (Date): 11/01/2011 To (Date): 10/31/2016 Annual Rate: \$ 13,200.00

In all other respects, the said Lease shall remain the same and is hereby confirmed.

Remarks

Thank you for providing the U.S. Postal Service with this space.

Attachment: Lease Amendment No. 002

Date
02/04/2010

Name of Contracting Officer
Michael Laverdiere

Signature





Lease Amendment

EXHIBIT # 2 Page 3

EXECUTED BY LANDLORD this 18th day of November, 2009

CORPORATION

Woodgate Volunteer Fire Dept Inc

By executing this Lease Amendment, Landlord certifies that Landlord is not a USPS employee or contract employee (or an immediate family member of either), or a business organization substantially owned or controlled by a USPS employee or contract employee (or an immediate family member of either).

By: [Signature] CEO
Name & Title

Name & Title

Name & Title

Name & Title

Name & Title

Name & Title

Landlord's Name: WOODGATE VOLUNTEER
and address: FIRE DEPT INC
PO BOX 187

e-mail: _____

WOODGATE, NY

Zip+4: 13494-0187

Landlord's Telephone Number(s): 315-392-2142 FAX: _____

Social Security No. or Federal Tax Identification No.: XX-XXX477-4470 (S)

Witness

Witness

- a. Where the Landlord is a corporation, leases and lease amendments entered into must have the corporate seal affixed or in place thereof the statement that the corporation has no seal.
- b. Where the Landlord is a corporation, municipal corporation, non-profit organization, or fraternal order or society, the Lease Amendment must be accompanied by documentary evidence affirming the authority of the agent, or agents, to execute the Lease Amendment to bind the corporation, municipal corporation, non-profit organization, or fraternal order or society for which he (or they) purports to act. The usual evidence required to establish such authority is in the form of extracts from the articles of incorporation, or bylaws, or the minutes of the board of directors duly certified by the custodian of such records, under the corporate seal. Such resolutions, when required, must contain the essential stipulations embodied in the Lease Amendment. The names and official titles of the officers who are authorized to sign the Lease Amendment must appear in the document.
- c. Any notice to Landlord provided under this Lease Amendment or under any law or regulation must be in writing and submitted to Landlord at the address specified above, or at an address that Landlord has otherwise appropriately directed in writing. Any notice to the Postal Service provided under this Lease Amendment or under any law or regulation must be in writing and submitted to "Contracting Officer, U S Postal Service" at the address specified below, or at an address that the Postal Service has otherwise directed in writing

ACCEPTANCE BY THE POSTAL SERVICE

Date: 2/4/10

Michael Laverdiere

Contracting Officer

[Signature]
Signature of Contracting Officer

Northeast FSO 6 GRIFFIN ROAD NORTH, WINDSOR, CT 06008-0300

Address of Contracting Officer